

QUEEN'S BENCH.

IN APPEAL.

BYLAND, *et al.*

Appellants.

vs.

OSBOR.

Respondent.

Argument for

QUEEN'S BENCH.

IN APPEAL.

LOWER CANADA,

QUEEN'S BENCH.

IN APPEAL.

IN THE CAUSE OF

MARY PITT GORE RYLAND, and
GEORGE H. RYLAND,

(Plaintiffs in the Court below,)

APPELLANTS.

B. C. A. GUGY,

(Defendant in the Court below,)

RESPONDENT.

RESPONDENT'S CASE.

It is not necessary to refer to the causes for which the Plaintiffs brought suit against the Defendant. Suffice it to say that the Defendant pleaded that issue was joined, and that after an ineffectual attempt to adduce evidence, the Plaintiffs seem to have become convinced that they could not succeed. Eventually the Defendant made the usual motion, and the action was dismissed with costs.

Litigation involves difficulty and expense, evils which are much aggravated by distance. In this case the Respondent residing at Quebec, was frequently compelled to repair to Montreal to instruct his Counsel and to be present at the enquête made by the Plaintiffs. Were no other reason to be alleged in support of the judgment condemning the Plaintiff to pay costs, it is submitted that the evils thus recklessly inflicted by them on the Defendant would justify the course pursued by the Court below. It is submitted, however, that the judgment is conformable to law and can be supported by authority.

The Defendant maintains further, that in instituting the present appeal the Plaintiffs have been ill advised.

1stly.—Because the Appellants are by the judgment whereof they complain condemned to pay costs—no more—and because not only it is not established that the amount is sufficient to give jurisdiction to this Court, but that it is clear that the sum is not one fourth of that amount.

2ndly.—Because the question of costs has invariably been held to be within the discretion of the Court.

Now, on reference to the reasons of appeal, it will be found that the Appellant complains only of the condemnation to pay costs.

T. R. SMITH,

For Respondent.

Montreal, 20th May, 1838.



